IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1165 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

and

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHANUBHAI DEVATBHAI AND ANR.

Versus

STATE OF GUJARAT AND ORS.

Appearance:

MR SANJAY M AMIN, for Petitioners

MR MUKESH PATEL, A.G.P for Respondent Nos. 1 to 6

CORAM : MR.JUSTICE M.R.CALLA

and

MR.JUSTICE D.H.WAGHELA

Date of decision: 29/03/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

The petitioners herein claim to be the owners of the lands bearing Survey Nos.255 and 285/2 situated at village Kundal, Tal. Barvala, Dist. Ahmedabad. The petitioners came with a grievance that under the Khambhda Irrigation Project in Taluka Dhandhuka, Dist. Ahmedabad it was proposed by the State Government to construct a Canal. For the purpose of construction of the said Canal different lands came to be acquired by the respondents from various villages viz.Kundal, Khambhda, Bela etc. without following any procedure under the Land Acquisition Act. The possession of the part of the lands belonging to the petitioners had also been taken in the year 1983 for the construction of the said Canal and the petitioners say that out of the lands of the two petitioners bearing Survey Nos.255 and 285/2 admeasuring 4 hectare 46 Are 17 sq.mtrs. and 4 hector 45 Are 16 sq.mtrs. respectively, the possession of the lands admeasuring 23 Are and 82 sq.mtrs. and 18 Are and 44 sq.mtrs. respectively was taken over by the respondents way back in the year 1983. It is also stated that these lands of the petitioners were shown at serial Nos.99 and 109 in the list, a xerox copy of which has been annexed at Annexure "B". It has been stated that no legal procedure whatsoever under the Land Acquisition Act was followed and even after the construction of the said Canal and even after expiry of the period of more than 17 years after taking over possession, the respondents have not initiated Land Acquisition proceedings and no notices under section 4 or 6 have been issued. The petitioners claimed that they have been deprived of their properties by the respondents without following the provisions of law and their rights under Article 14 and 300-A of the Constitution of India have been violated.

2. In paragraph 8 of the petition it is stated that the possession of the lands of village Khambhda and Bela had also been taken in the similar manner by the respondents for the very same purpose without paying any compensation, as a result of which, the owners of the lands of the said villages had also approached this Court by way of Special Civil Application Nos.8500 and 8501 of 1999. This Court after hearing the respondents directed them by an order dated 20th December, 1999 not only to complete the acquisition proceedings but also directed the respondents to pass an award and pay the compensation within a period of six months from the service of the order. A copy of the said order passed by this Court on 20th December, 1999 is annexed at Annexure "C". On the aforesaid factual aspects, the petitioners have prayed that the action of the respondents be declared to be

illegal and they may be directed either to hand over the vacant and peaceful possession of their lands in question together with damages or to pay legal compensation as per the provisions of the Land Acquisition Act, 1984 for the loss suffered by the petitioners.

3. In this Special Civil Application, Rule was issued by this Court on 19th February, 2001 and the same was made returnable on 5th March, 2001.

4. So far, no reply has been filed, but Mr.Mukesh Patel, learned A.G.P. appearing on behalf of the respondents has candidly stated before us that the petitioners are right in saying that the possession of their lands as stated had been taken over without following the procedure under the Land Acquisition Act, but he submits that the acquisition proceedings are now being initiated although so far, even the notice under Section 4 has not been issued.

5. In the facts and circumstances of the case, we find that the respondents are required to complete the acquisition proceedings at the earliest possible opportunity. For this purpose, we direct the respondents to complete the acquisition proceedings as early as possible but in no case later than a period of six months from the date the certified copy of this order is served upon the concerned authority. The amount of compensation, as may be determined, and as may be found to be payable to the petitioners may also be paid immediately after passing the award.

6. This Special Civil Application is allowed accordingly. Rule is made absolute in the aforesaid terms with no order as to costs.

(M.R.Calla, J) (D.H.Waghela, J)

'Bhavesh'